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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,716	01/20/2006	Akito Tanaka	265233US0XPCT	7461
22850 7590 08/19/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER VALENROD, YEVGENY				
ART UNIT 1621		PAPER NUMBER		
NOTIFICATION DATE 08/19/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/522,716

Applicant(s)

TANAKA ET AL.

Examiner

YEVEGENY VALENROD

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-61 is/are pending in the application.
- 4a) Of the above claim(s) 46 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45 is/are allowed.
- 6) ☒ Claim(s) 42-44, 47-49, 54-59 and 61 is/are rejected.
- 7) ☒ Claim(s) 50-53 and 60 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Newly submitted claim 46 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 46 is drawn to a polymer. In the restriction requirement dated 4/3/09 the polymer was restricted to group IV which was not elected.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 46 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Withdrawn rejections

Rejections of claims 26, 24, 38, 35-36, 24-34 and 40-41 under 35 USC 112 2nd paragraph are withdrawn in view of applicants' amendments.

Rejection of claims 24-30, 32-35, 37 and 39-41 under 35 USC 102(b) over Chapman et al. is withdrawn in view of applicants' amendments.

Rejection of claims 24-26, 28, 30, 31, 33, 35-37 and 40 under 35 USC 102(b) over Dhawan et al is withdrawn in view of applicants' amendments.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 42-44, 47-49, 54-59 and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Akerblom et al (*Bioconjugate Chem.*, **1993**, *4*, 455-466).

On page 460, Scheme IV, Akerblom et al. disclose mAb-rSEA conjugate 16 which meets the structural limitations of claims 42 and 44.

Akerblom also disclose purification of the mAb-rSEA conjugates via chromatography on a Sepharose 4B-anti-r-SEA column which meets the limitations directed to the instantly claimed spacer being bound to a solid resin. This also meets the limitations of claims 57, 59 and 61 since mAb is a protein (MW is greater than 1,000) and the Sepharose column is a polysaccharide polymer material. Limitation of claims 58 directed to having a compound of less than 1000MW being bound to a spacer is also met by the chromatography separation. The compound of less than 1000MW is the terminal amino acid on the mAb. Since claim 48 allows for the spacer to be any molecule comprising at least two structures of formula (Ie), the mAb in Akerblom can be considered to be part of the spacer, with the exception of the last amino acid. The last amino acid, having MW of less than 1000 is a compound bound to the spacer.

Objections

Claims 50-53 and 60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 45 is allowed.

Conclusion

Claims 42-61 are pending

Claims 42-44, 47-49, 54-59 and 61 are rejected.

Claims 50-53 and 60 are objected to.

Claim 46 is withdrawn

Claim 45 is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yevgeny Valenrod whose telephone number is 571-272-9049. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Sullivan can be reached on 571-272-0779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yevgeny Valenrod/

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